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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,841	08/18/2003	Andrew Silver	19018.00011	4077
Steven Thrasher 390 Sandhill Dr. Richardson, TX 75080				
7590 02/25/2008				
EXAMINER				
FRENEL, VANEL				
ART UNIT		PAPER NUMBER		
3627				
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02/25/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/642,841

**Applicant(s)**

SILVER, ANDREW

**Examiner**

VANEL FRENEL

**Art Unit**

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Notice to Applicant

1. This communication is in response to the Amendment filed on 12/3/07. Claims 1, 5, 10, 18 and 20 have been amended. Claims 1-20 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1- 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ragsdale-Elliott et al (2002/0147647) in view of Miller et al. (6,844,893) and further in view of Mayer et al (2002/0026364).  
(A) Claims 1 and 10 have been amended to recite the limitations of: "without the participation of wait-staff".

Ragsdale-Elliott and Miller do not explicitly disclose the limitation of "without the participation of wait-staff".

However, this feature is known in the art, as evidenced by Mayer. In particular, Mayer suggests "without the participation of wait-staff" (See Mayer, Page 3, Paragraphs 0035-0036).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Mayer within the combined teachings of Ragsdale-Elliott with the motivation of assisting in the operation of a restaurant's

management and customer service functions by having at least one hand held device for inputting, outputting, and displaying information, a networking means, such as a server, for containing, displaying, and processing the information connected to said at least one hand held device etc., (See Mayer, Page 1, Paragraph 0009).

(B) Claim 18 has been amended to recite the limitations of "for one of the at least two people, without the participation of wait-staff".

Ragsdale-Elliott and Miller do not explicitly disclose the limitation of "for one of the at least two people, without the participation of wait-staff".

However, this feature is known in the art, as evidenced by Mayer. In particular, Mayer suggests " for one of the at least two people, without the participation of wait-staff" (See Mayer, Page 2, Paragraph 0025).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Mayer within the combined teachings of Ragsdale-Elliott with the motivation of assisting in the operation of a restaurant's management and customer service functions by having at least one hand held device for inputting, outputting, and displaying information, a networking means, such as a server, for containing, displaying, and processing the information connected to said at least one hand held device etc., (See Mayer, Page 1, Paragraph 0009).

(C) Claim 5 has been slightly amended to include "at". However, this changes does affect the scope and the breadth of the claim as previously recited, is rejected for the same reasons given in the prior art Office Action, and incorporated herein.

(D) Claim 20 has been slightly amended to include a "period". However, this changes does affect the scope and the breadth of the claim as previously recited, is rejected for the same reasons given in the prior art Office Action, and incorporated herein.

***Response to Arguments***

4. Applicant's arguments filed on 12/03/07 with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not the applied art teaches computer integrated communication system for restaurants (6,973,437) and system and method for reducing excess capacity for restaurants and other industries during off-peak or other times (6,741,969).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art  
Unit 3627

/Vanel Frenel/  
Examiner, Art Unit 3627

February 12, 2008